

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the License of Standard Construction Services, LLC	FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDATION
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The above matter came on for hearing before Administrative Law Judge (ALJ) Richard C. Luis on October 26 and December 20, 2004 and June 7, 2005 at the Office of Administrative Hearings in Minneapolis. Michael J. Tostengard, Assistant Attorney General, 1200 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2130, appeared on behalf of the Minnesota Department of Labor and Industry ("Agency", "Department"). Stephen L. Madsen, Esq., 190 Midtown Commons, 2334 University Avenue, St. Paul, MN 55114, appeared on behalf of Standard Construction Services, LLC, ("Company", "Licensee", "Respondent", "Standard"). The hearing record closed on September 21, 2005, after briefing and admission to the record of Respondent's Exhibit 22.

NOTICE

This report is a recommendation, not a final decision. The Commissioner of the Department of Labor and Industry will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Scott Brener, Commissioner, Minnesota Department of Labor and Industry, 443 Lafayette Road, St. Paul, MN 55155 to learn the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. In order to comply with this statute, the Commissioner must then return the record to the Administrative Law Judge within 10 working days to allow the Judge to determine the discipline to be imposed. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

ISSUES

1. Whether disciplinary action should be taken against the Respondent's license for fraudulent, deceptive or dishonest practices in violation of Minn. Stat. § 326.91, subd. 1(2) and Minn. R. 2891.0040, subps. 1C and 1H; for failure to reasonably supervise its employees in violation of Minn. Stat. § 326.91, subd. 1(4); for failure to reduce contracts to writing, in violation of Minn. Stat. § 326.91, subd. 1(5) and Minn. R. 2891.0030; for demonstrating incompetence, untrustworthiness or financial irresponsibility in violation of Minn. Stat. § 326.91, subd. 6; and for failure to use proceeds received from homeowners to pay subcontractors and suppliers in violation of Minn. Stat. § 326.91, subd. 1(8); and

2. Whether the summary suspension of the Respondent's Residential Building Contractor's License on September 17, 2004 should be continued, pending the issuance of a final order in this matter.

Based on the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. Standard Construction Services, LLC, is currently licensed as a Residential Building Contractor with the Department, License No. 20319453.

2. The Department commenced an investigation of Standard in June, 2003, after the Attorney General's Office notified the Department that it had received numerous consumer complaints alleging misrepresentation by Standard. The Department sent a letter to Standard on June 10, 2003, requesting a complete list of homeowners who had contracted with Standard since January 1, 2002. After receiving a list of Standard's customers, the Department contacted Standard's customers to make inquiries concerning its business practices. Nineteen of the customers indicated dissatisfaction with Standard.

3. A number of Standard's customers indicated that Brian Bram, Standard's owner, and other Standard salespeople would require the homeowners to sign a form in order to give the homeowner an estimate. At the time Standard's representative requested the homeowner to sign the form, the homeowner was told that by signing they were not entering into a binding contract. The form was actually written as a contract, which contained a provision that customers owe Standard 35% of the contract price regardless of whether any work was performed. Later, if the homeowner told Standard that it did not want the company to do the work, Standard would claim that the document they signed was a binding contract and demand payment of 35% of the contract price as a cancellation penalty.

4. On February 24, 2004, the Department issued a Notice of and Order for Hearing, Order for Prehearing Conference and Statement of Charges in this matter, setting a prehearing conference for April 9, 2004.

5. Prehearing Conferences were conducted in this matter on April 9 and July 20, 2004.¹

6. Sometime after the conduct of the prehearing conference on April 9, 2004, the Department and the Respondent arrived at a preliminary settlement, or settlement in principle, which was memorialized in a draft consent order² that was never executed.

7. Prior to the execution of any consent order by both parties, the Department issued an amended Statement of Charges and Order for Summary Suspension in this matter on September 17, 2004. The amended charges were based on additional complaints from over thirty customers or potential customers of the Licensee.

8. The Better Business Bureau in St. Paul has listed the fact that charges have been filed against the Respondent since February of 2004, and noted separately the filing of the Amended Statement of Charges and Order for Summary Suspension since September of 2004.

9. On July 2, 2004, Charles Durenberger, Supervisor of License Investigators, for the Agency³ had a meeting with officials of the Respondent at Standard Construction's office. The meeting was primarily was a discussion between Mr. Durenberger and Dave Showers, one of Standard Construction's owners and operating officers. The conversation, which included a few other participants in minor roles, was recorded by one of those other participants without the knowledge of Mr. Durenberger.

On September 21, 2005, the Administrative Law Judge issued an Order that admitted to the record of this proceeding the transcript (Exhibit 22) of the tape-recorded conversation of July 2, 2004.

10. Ardis Hewitt, a resident of St. Paul, entered into a remodeling contract with Standard on April 28, 2004 in connection with work to be performed on her house. Ms. Hewitt paid a total of \$21,000 to the Respondent, who commenced work on the project. Work was stopped after the City of St. Paul "red-tagged" the job due to code violations. Standard failed to correct the violations, and Hewitt obtained a substantial judgment (\$7,500) against the Respondent, which has not been satisfied. Ms. Hewitt had to contract with another remodeling contractor to finish the job.⁴

11. Ms. Lu Clemmensen entered into a contract with Standard in April, 2004 for an addition to her home and remodeling of her kitchen. In that connection, Ms. Clemmensen paid Standard \$3,500 in architect's fees and \$23,760 (approximately 20 %

¹ Ex. 21.

² Ex. 23.

³ During the pendency of this proceeding, Mr. Durenberger's division and license investigating function was transferred from the Department of Commerce to the Department of Labor and Industry.

⁴ Testimony of Hewitt.

of the balance of the contract). The Respondent never commenced any work or paid Ms. Clemmensen back. Ms. Clemmensen was informed later by Brian Bram, the Licensee's president, that she would have to pay 35 % of the contract price in order to release herself from her obligations.⁵

12. In October, 2003, Barry Bisogni entered into a contract with Standard for the construction of a room addition. The Respondent failed to complete the job and issued insufficient funds checks to a contractor in connection with work on the Bisogni project. Mr. Bisogni was forced to hire someone else to complete the job. In return for his payments to Standard of over \$31,000, Mr. Bisogni received work on the building's foundation, worth approximately \$12,000.⁶

13. From April 2, 2004, Scott Berkholz of White Bear Lake entered into a contract with the Respondent for the remodeling of his kitchen, and tendered the Respondent a check for \$12,000 (50 % of the contract price). As of the time of the hearing, no work had been commenced by Standard on the Berkholz project.⁷

14. Mr. Gene Muellner entered into a contract with the Respondent for the construction of a three-season porch in March, 2004. The contract price was over \$17,000, on which Mr. Muellner made a down payment of \$6,000. No work has been completed by the Respondent, and Standard has failed to return the \$6,000 to Mr. Muellner. Mr. Muellner obtained a judgment of \$6,000 against Standard, which judgment has not been satisfied (as of the time of the hearing, the judgment was under appeal).⁸

15. Stephen Fossbinder of St. Paul entered into a contract with the Respondent in May, 2004 for work on his roof and gutters. In that connection, he paid \$3,044 to the Licensee (50 % of the contract price). Standard never commenced work on the project and failed to pay Mr. Fossbinder back. Fossbinder was then cited by the City of St. Paul for the unfinished work and had to retain a different contractor to finish the job.⁹

16. Mr. Fossbinder investigated Standard's situation on the website of the St. Paul Better Business Bureau, and learned that the site contained negative statements regarding the Licensee's reputation.

17. In connection with his experiences with the Licensee, Mr. Fossbinder was in the process of putting together a lawsuit. He recalls being advised at that time by Department Investigator Christine Williams to add Brian Bram to the lawsuit in Mr. Bram's personal capacity.¹⁰

18. On or about January 4, 2003, James Enge of Minneapolis met with representatives from Standard regarding a roofing and remodeling job he was

⁵ Testimony of Clemmensen.

⁶ Testimony of Bisogni.

⁷ Testimony of Berkholz.

⁸ Testimony of Muellner.

⁹ Testimony of Fossbinder.

¹⁰ Testimony of Fossbinder.

contemplating. The Licensee's representative (Dick Sorenson) presented Mr. Enge with documents to sign, informing him that they were an estimate, not a binding contract. In fact, Standard obtained Mr. Enge's signature on a contract and subsequently attempted to collect on a provision providing for payment of 35 % of the contract price (\$27,840) regardless of whether work was commenced. In fact, Mr. Enge had never agreed on a contract price, and the price was written into the contract later. Mr. Enge explained that situation to Brian Bram, who informed him "I can't help it if you sign blank, dummy contracts!". Standard's representatives never informed Mr. Enge about the "35% clause" at the bottom of the contract form.¹¹

19. Richard Wheeler hired Standard to design a deck for his home and paid Standard \$500. Standard never did any work on the job and failed to return the \$500. Mr. Wheeler obtained a judgment against Standard for \$500 plus costs, which has not been satisfied.¹²

20. In September of 2003, Sylvia Bernal entered into three contracts with Standard for remodeling of her kitchen, replacement of a door and remodeling of a bathroom. To get these projects started, Ms. Bernal paid the Licensee a total of \$24,000. This amount is in excess of the work Standard completed, and Ms. Bernal has been forced to hire other companies to complete some of the work. Standard was unable to pay its subcontractors in connection with the Bernal job. As late as July, 2004, Mr. Bram informed Ms. Bernal that Standard "had so much to do, we can't come back for a month". Standard never returned to finish the work.¹³

21. Clint Myhre entered into a contract with Standard on February 19, 2004 for the remodeling of his kitchen and a bathroom. Myhre made two separate payments, totaling over \$37,000, and the jobs have not been completed. After talking with Brian Bram, Mr. Myhre concluded that he had to finish the job by himself.

22. In order to finish the work properly, Mr. Myhre was informed by building inspectors from the City of Blaine that the work done by Standard on his deck had to be reconstructed. In addition, a licensed electrician had to be brought in to re-wire the work that had been performed by Standard's subcontractor, Marcus "Sparky" Miller, who is not licensed as an electrician.¹⁴

23. Fridley resident Brian Fannemel hired Standard in October, 2003 for a kitchen and bathroom remodeling job. He paid the Licensee \$19,000, and now almost all of the work has been completed, but very little of it by the Licensee. The subcontractor hired by Standard, one "Doug", informed Mr. Fannemel that Standard had quit paying him, and that the job would not be finished under the auspices of the Licensee. Mr. Fannemel's cost for the completion of the work not done by Standard will exceed the balance owed on his Standard contract. Mr. Fannemel also received subsequent notice of a lien for electrical work which was performed by Standard's subcontractor, which was never paid by the Licensee.

¹¹ Testimony of Enge.

¹² Testimony of Wheeler.

¹³ Testimony of Bernal.

¹⁴ Testimony of Myhre.

On July 19, 2004, Mr. Fannemel called Standard and asked them not to return until they had a written plan as to how they would clear up the liens and other financial complications. Standard never re-contacted Mr. Fannemel.¹⁵

24. Ardus Vining of Shoreview discussed the possibility of residential remodeling work with the Licensee. She signed a document based on Standard's representation that it merely was an estimate. In fact, the document was a contract containing a 35% payment requirement, which Standard subsequently attempted to enforce. Ms. Vining has paid Standard nothing to date.¹⁶

25. Numerous judgments have been entered against Standard in connection with its activities during the last few years. Judgments not yet satisfied exist in excess of \$68,000, which has resulted in the payment of that amount to various claimants by the Minnesota Building Contractor's Recovery Fund. As of the time of the hearing, Standard had made no payments to the Recovery Fund, which lack of repayment resulted in the automatic suspension of its license, enforced by the Commissioner's Order of September 17, 2004.¹⁷

26. Mr. Jerry Boggs of Minneapolis recalls being informed by Department investigator Christine Williams sometime in 2004 that the Department was "gonna try to put Standard out of business". Mr. Boggs understood this statement to mean the Department was taking action against Standard because of the Licensee's financial difficulties. The statement was made after Mr. Boggs had called the Department with a concern about the Respondent's not finishing a job for him.¹⁸ Ms. Williams does not recall making the statement.

27. Brian Bram founded Standard Construction in September, 2001. Prior to a complaint filed with the Commerce Department in 2003 by Willard Rehphohl, Mr. Bram contends that Standard Construction was in no financial jeopardy and was keeping up with its responsibilities to customers. In the course of settlement discussions regarding the Rehphohl complaint, Bram and Christine Williams, the Department's lead investigator on the Standard Construction complaints file, got into a "heated conversation" regarding whether the company should pay a \$1,000 fine in connection with settling the matter.¹⁹

28. After Mr. Bram "vigorously" informed Ms. Williams that he would not agree to a censure of Standard, as well as the \$1,000 fine in connection with the Rehphohl case, Bram recalls that Williams informed him that the Department would "come after you with the other 100 complaints the Department received" in connection with the sending out of a questionnaire regarding Standard's performance and reputation among its customers.²⁰

¹⁵ Testimony of Fannemel.

¹⁶ Testimony of Vining.

¹⁷ Testimony of Williams.

¹⁸ Testimony of Boggs.

¹⁹ Testimony of Bram.

²⁰ The Department, in connection with the Rehphohl investigation, had obtained a customer list from Standard's office. See Finding 2.

29. Mr. Bram also refused to sign the proposed consent order from the Department because it would have hurt his standing with the St. Paul Better Business Bureau to have a censure and fine on Standard's record.

30. After the initial Prehearing Conference in this matter on April 9, 2004, Standard and the Department arrived at a "settlement in principle" that provided for the payment of a \$2,500 fine and an agreement by Standard that it would eliminate its business practice of requiring customers to sign contracts where the contract language was not spelled out clearly in the body of the document (the notation that the document constituted a binding contract had been located along the margins of the document).²¹ The Department agreed that Standard would not be censured.²²

31. In thinking that Standard and the Department had arrived at a settlement, Mr. Bram arranged for the sale of a controlling interest in Standard Construction to Dave Showers, who would receive a 51% share of the company.²³ Sometime in May, 2004, Mr. Bram and Mr. Showers switched roles at Standard Construction, and Mr. Bram became the head of sales.

32. The Licensee's sales for 2003 amounted to \$1.4 million, a four-fold increase over 2002. The company was on pace to do approximately \$6 million in sales in 2004.²⁴

33. After filing of the initial Statement of Charges by the Department, and the report of that filing of charges on the website of the St. Paul Better Business Bureau, the Licensee's sales dropped dramatically.

34. Even if a consent order had been signed between the parties, It was the practice of the St. Paul Better Business Bureau still to report the disciplinary actions taken within the confines of the Order and report the results on its website. Persons reviewing the website after the Bureau noted the initial Statement of Charges in this matter could interpret the notations to convey that a disciplinary action had been taken against Standard Construction.²⁵

35. Mr. Bram (who was not present) and other officials of Standard Construction interpreted the statements made by Mr. Durenberger at the July 2, 2004 meeting mentioned at Finding 9 to be a threat by a top official of the Department that he would "sic" Chris Williams, "who had threatened earlier that she would come to the Licensee's premises and clean out the office," on them. As a result, Standard greatly decreased its office activity after the July 4 weekend in 2004.

36. During the meeting with Mr. Durenberger on July 2, 2004, Dave Showers represented to Durenberger that he was not in a position to "make a deal" on the Licensee's behalf.

²¹ Testimony of Bram.

²² Testimony of Durenberger.

²³ Testimony of Bram.

²⁴ Testimony of Bram.

²⁵ Testimony of Durenberger.

37. From Mr. Durenberger's point of view, his statement to Mr. Showers and other Standard officials in early July, understood by them to be the effect that "we'll take it all", meant that he, Ms. Williams and other Department officials would want to look at the entirety of the Company's records upon their return to Standard's offices.

38. On July 6, 2004, Department of Commerce officials came to the Licensee's premises and examined the company's files and records.²⁶

39. During the interim before the filing of the Amended Statement of Charges and issuance of the Order of Immediate Suspension on September 17, 2004, Mr. Durenberger was most concerned with crafting language for a consent order that would make sure that the customers knew they were signing a contract in connection with the agreements made in the future with Standard Construction.

40. Mr. Durenberger did not enter into a consent order to memorialize the "settlement in principle" discussed in earlier Findings because he was busy attending to other matters (during May 2004) and because complaints about Standard continued to be received by the Department during and after June 2004.²⁷ A number of these complaints were made in response to questionnaires the Department sent to other present or former customers of Standard's after obtaining the Company's customer list.²⁸

41. During the month of July, 2004, Mr. Bram attempted to work out a plan to restructure the work schedule for Standard. The plan centered around finishing up the Clemmensen job, the largest financial contract the Licensee had ever entered. During the middle of July 2004 Mr. Bram faxed to Charles Durenberger a list containing client names and his plans regarding each client. Mr. Durenberger and Christine Williams reviewed the document²⁹ and responded to Mr. Bram that the "plan" represented in the document was insufficient.

42. Ms. Williams and Mr. Durenberger observed that Standard's "plan" amounted to a scheme whereby the company would take new money obtained from recently-enrolled customers and use that money to pay debts owed on contracts involving older jobs. They noted that Bram was never able to establish to the Department's satisfaction that he had command of the Company's financial situation, in terms of even rudimentary records of assets and liabilities or other kinds of balance sheet or income statement data.³⁰

Based on the Findings, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Administrative Law Judge and the Commissioner of Labor and Industry have jurisdiction in this matter pursuant to Minn. Stat. § 14.50, 45.027 and 326.81.

²⁶ Testimony of Bram.

²⁷ Testimony of Durenberger.

²⁸ Testimony of Bram.

²⁹ Ex. 25.

³⁰ Testimony of Williams.

2. Any Findings more properly termed Conclusions are adopted as such.
3. The Respondent was given timely and proper notice of the proceedings in this matter. The Department has complied with all procedural requirements of law.
4. The Department has established by a preponderance of the evidence that Standard performed in breach of contract in violation of Minn. Stat. § 326.91, subd. 1(4) and demonstrated financial irresponsibility in violation of Minn. Stat. § 326.91, subd. 1(6) by failing to correct the violations cited by the City of St. Paul in connection with Hewitt job, by failing to complete that job and by failing to satisfy a judgment obtained by Ms. Hewitt.
5. By collecting money from Lu Clemmensen, and never commencing any work or paying her back, Standard performed in breach of contract in violation of Minn. Stat. § 326.91, subd. 1(4) and demonstrated financial irresponsibility in violation of Minn. Stat. § 326.91, subd. 1(6).
6. Regarding Barry Bisogni, Standard performed in breach of contract in violation of Minn. Stat. § 326.91, subd. 1(4) and demonstrated financial irresponsibility in violation of Minn. Stat. § 326.91, subd. 1(6) by failing to complete the Bisogni job and forcing the customer to hire someone else to complete the work.
7. Standard violated Minn. Stat. § 326.91, subd. 1(4) by performing in breach of contract in connection with the Berkholz job. Regarding the Berkholz job, Standard also demonstrated financial irresponsibility in violation of Minn. Stat. § 326.91, subd. 1(6).
8. Standard performed in breach of contract and demonstrated financial irresponsibility in connection with its dealings with Gene Muellner, in violation of Minn. Stat. § 326.91, subs. 1(4) and 1(6).
9. Standard performed in breach of contract and demonstrated financial irresponsibility in violation of Minn. Stat. § 326.91, subs. 1(4) and 1(6) in connection with its dealings with Stephen Fossbinder.
10. In connection with its dealings with James Enge, Standard engaged in a fraudulent, deceptive or dishonest practice in violation of Minn. Stat. § 326.91, subd. 1(2) by presenting Mr. Enge with a contract form and representing to him that it was only an estimate, not a binding contract and subsequently attempting to collect on a contract provision providing for payment of 35% of the contract price regardless of whether work was commenced.
11. Standard performed in breach of contract in violation of Minn. Stat. § 326.91, subd. 1(4) and demonstrated financial irresponsibility in violation of Minn. Stat. § 326.91, subd. 1(6) in connection with its dealings with Richard Wheeler.
12. Standard performed in breach of contract and demonstrated financial irresponsibility in violation of Minn. Stat. § 326.91, subs. 1(4) and 1(6) in connection with its dealings with Sylvia Bernal.

13. Standard performed in breach of contract and demonstrated financial irresponsibility and incompetence in violation of Minn. Stat. § 326.91, subds. 1(4) and 1(6) in connection with its transactions with Clint Myhre.

14. Standard performed in breach of contract and demonstrated financial irresponsibility in violation of Minn. Stat. § 326.91, subds. 1(4) and 1(6) in connection with its business dealings with Brian Fannemel.

15. Standard committed a fraudulent and deceptive practice in violation of Minn. Stat. § 326.91, subd. 1(2) by representing to Arduus Vining that the document she signed was a contract containing a 35% payment requirement, which it then attempted to enforce.

16. It is appropriate to continue in effect the Summary Suspension of the Respondent's Residential Building Contractor's License issued on September 17, 2004, through the pendency of this proceeding, until a final decision is issued.

17. The taking of disciplinary action against the Residential Building Contractor's License of the Respondent is in the public interest within the meaning of Minn. Stat. § 45.027, subd. 7(a)(1).

Based on the Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATIONS

IT IS RECOMMENDED:

(1) That appropriate disciplinary action be taken against the Residential Building Contractor's License of Standard Construction Services, LLC; and

(2) That the Summary Suspension Order issued in this matter on September 17, 2004, be continued in effect until the Commissioner of Labor and Industry issues a final order.

Dated this 21st day of April, 2011

/s/ Richard C. Luis

RICHARD C. LUIS
Administrative Law Judge

Reported: Taped (7 tapes)

MEMORANDUM

The Respondent offered no factual rebuttal to the testimony from the complaining witnesses brought on by the Department who testified as to the business dealings they had with Standard Construction. Rather than contesting the Department's factual evidence of acts violating Minn. Stat. §§ 45.027 and 326.91, Standard accused the Department of a personal vendetta against Brian Bram, the Company's founder. Standard contends also that a settlement was reached between it and the Department

of Commerce. The Administrative Law Judge is not persuaded by Standard's evidence in either regard.

With respect to a settlement between the Department and Standard Construction, there was an "Agreement in Principle", but there is no evidence that a consent order was ever signed by the parties. The evidence shows clearly that due to a large number of complaints that came in to the Department during the period of time it was considering appropriate settlement language, no consent order was ever formalized. Even if there had been a consent order, it is noted that consent orders do not contain release language that would have prevented the Department from proceeding with proposed discipline for violations not set forth in the original Statement of Charges.

Standard's contention that there was personal animus against Mr. Bram on the part of Department officials, in particular Charles Durenberger and Christine Williams, is without merit. Both Mr. Durenberger and Ms. Williams provided testimony that the Administrative Law Judge considers most credible to the effect that they did not proceed out of any animosity toward Mr. Bram. The record is clear that the Department proceeded because of Standard's numerous violations of the law that the Department has jurisdiction to enforce, which violations required disciplinary action in order to protect the public.

The allegation that Department officials intensified their pressure on Standard after Mr. Bram "refused to give in" on the Rehpohl complaint is based on facts noted at Finding 28. Mr. Bram's recollections of what Ms. Williams said then, even if accurate, fail to establish a vendetta or retaliation, in light of the undisputed evidence that many more complaints against Standard were on file.

The implication urged by the Respondent to label as threats the statements made by Mr. Durenberger during his July 2, 2004 meeting with Standard officials (Findings 35 and 37) is misplaced. Regarding the impression that Durenberger somehow implied that Ms. Williams would, in effect, close down the company's office is not borne out by any fair reading of Exhibit 22. Durenberger's and Williams's testimonies that all they wanted in early July was access to Standard's records is entirely credible. And Mr. Durenberger's alleged words that "we'll take it all" were most likely taken out of context.³¹ The ALJ accepts Durenberger's interpretation – the Department, if its officials returned to Standard's office, would like to see all the Respondent's records (a perfectly legitimate request).

Standard has not established its claim that the issuance of Statements of Charges by the Department caused its downfall. It is noted that the Department has a statutory right to issue such charges. By Standard's own admission, it was unable to meet its previous obligations and commitments in the course of its dealings, which problem it sought to alleviate by selling new jobs and applying the new proceeds to debts from pre-existing work. The evidence is clear that such financial irresponsibility was what led to the complaints that caused the Department to file the charges in proceeding. It is noted further that the practice of the St. Paul Better Business Bureau

³¹ See Ex. 22, p. 93.

to list a company against which a Statement of Charges has been filed, and to list also the entry of Orders of Summary Suspension against such companies, has not been shown by credible evidence to have caused the financial collapse of Standard Construction.

The Administrative Law Judge agrees with Mr. Durenberger with respect to the character of Brian Bram, Standard's owner. He is persuaded that Mr. Bram was incompetent in his business dealings, but did not act with any criminal intent. His belief, for example, that Standard had a right to 35% payment on contracts where it performed no work seems sincere, even though it was misplaced. It is evident from this record that the public needs protection from such practices, and disciplinary action against the Respondent would be consistent with the Department's duty to provide protection in this area.

R.C.L.